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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,092	06/25/2001	Yasushi Kaneko	971480A	8588

23850 7590 11/30/2001

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EXAMINER

NGUYEN, DUNG T

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 11/30/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/887,092**

Applicant(s)  
**Kaneko et al.**

Examiner  
**Dung Nguyen**

Art Unit  
**2871**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 25, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## **DETAILED ACTION**

### ***Priority***

1. This application appears to be a division of Application No. 08/981,654, filed 01/08/1998. A later application for a distinct or independent invention, carved out of a pending application and disclosing and claiming only subject matter disclosed in an earlier or parent application is known as a divisional application or "division." The divisional application should set forth only that portion of the earlier disclosure which is germane to the invention as claimed in the divisional application.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 4-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 8-9, 13-14 and 18 claims both an apparatus and the method steps of using the apparatus is indefinite. See *In Ex parte Lyell*, 17 USPQ2d 1548.

5. Claims 4-18 are also rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "device," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. *Id.* at 1551.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Amstutz et al. ,  
US Patent No. 4,634,229.

The above claim is anticipated by Amstutz et al., figure 1 which show a liquid crystal display (LCD) apparatus having:

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- A pair of transparent substrates (1, 2), each having parallel strips of electrode layers (6, 7);
- A super twist nematic liquid crystal (5) is sandwiched between the pair of substrates (1, 2), wherein the total twisted angle ( $\phi$ ) of liquid crystal molecules is between  $180^\circ$  and  $360^\circ$ ;
- A pair of polarizers (10, 11) is disposed to the outside of the pair of substrates (1, 2), wherein the polarizers having absorption axes which are inherently orthogonal to each other and the absorption axes inherently being angled  $45^\circ$  respect to a direction of the orientation of liquid crystal molecules in an intermediate portion in a direction of thickness of the liquid crystal layer (i.e.,  $\phi = 180^\circ$ ,  $\beta = 45^\circ$ ,  $\gamma = 45^\circ$ );

It should be noted that the recitation "a method of driving the liquid crystal shutter" is not germane to the issue of patentability of the device itself. Therefore, this limitation of the method of driving has not been given patentable weight.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amstutz et al., US Patent No. 4,634,229.

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Regarding claims 9-18, Amstutz et al. do not disclose the value of  $\Delta n.d$  that lies within a range of 600 to 900nm. However, Amstutz et al. do disclose the range of 800 to 1200nm for the  $\Delta n.d$  (claim 6). Therefore, such disclosed range in Amstutz et al. makes possible the claimed range of 600 to 900nm and overlapping ranges are at least obvious. In re Malagari, 499 Fed.2d 1297, 182 USPQ 549 CCPA 1974.

It should also be noted that, as noted above, the limitation of method of driving has not been given patentable weight.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Dung Nguyen whose telephone number is (703) 305-0423. The fax phone number for this Group is (703) 308-7722.

Any information of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0956.

DN  
11/13/2001



**William L. Sikes**  
**Supervisory Patent Examiner**  
**Group 2871**